

broadcast by WWOR-TV. In addition, the study addressed programming only during a very brief window in time – the 30 days leading up to the election.<sup>59</sup> This time amounts to just 1 percent of the time that Fox has been the licensee of WWOR-TV, a manifestly unfair sample size. Accordingly, the study cannot serve as the basis for a thorough analysis of WWOR-TV’s overall coverage of New Jersey politics.

Nonetheless, even the Eagleton report recognizes that at least a quarter of the analyzed WWOR-TV newscasts included election coverage during the study period.<sup>60</sup> The Eagleton study also lauds WWOR-TV for broadcasting a higher percentage of election stories related to New Jersey than the other commercial broadcast stations reviewed.<sup>61</sup> In addition, the study found that while the average New Jersey election story on *all* evaluated stations lasted under 2.5 minutes, WWOR-TV’s average story length was over 4 minutes (and two of the station’s stories lasted longer than 7 minutes each).<sup>62</sup> Thus, if anything, the study shows that WWOR-TV provided more in-depth treatment of

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*Stations*, attached as Exhibit A to the *Petition* (the “Eagleton Study”), at 8 (emphasis in original).

<sup>59</sup> *See id.*

<sup>60</sup> *See id.* at 9. The study methodology indicates that one-hour news programs (such as those broadcast by WWOR-TV) were treated as two half-hour programs for purposes of the results. Thus, the 44 WWOR-TV broadcasts captured by Eagleton really amount to 22 newscasts; it is not clear why Eagleton did not review or analyze the 8 additional newscasts that the station broadcast during the study period. In any case, the study recorded 11 WWOR-TV newscasts with an election story, but there is not sufficient information to ascertain how often the 11 stories aired during different half-hour segments on the same night (as opposed to different newscasts altogether). It is highly likely that, if properly recorded as 22 hour-long programs, far more than 25 percent of the station’s newscasts (and possibly as much as 50 percent) contained an election story.

<sup>61</sup> *See id.* at 15-16.

<sup>62</sup> *See id.*

elections issues than other stations, and the Petitioners' claim that the "results . . . clearly indicate the station's failure to serve its community of license" is utterly without merit.<sup>63</sup>

The Petitioners also criticize WWOR-TV for failing to focus on any "local, i.e. non-gubernatorial" races during the newscasts evaluated by Eagleton.<sup>64</sup> Why the Petitioners would contend that the race for governor is not local or, by implication, important, to residents of New Jersey is, to say the least, baffling. Regardless, it was a perfectly appropriate exercise of good faith discretion for Fox to focus on a governor's race that the Petitioners freely acknowledged as "critical" and of "broad interest for the people of New Jersey."<sup>65</sup> And, of course, the Commission has made quite clear that it will not sit in review of the editorial choices that broadcasters make in the selection of what news to cover.<sup>66</sup> It is not surprising, incidentally, that Fox would choose to concentrate more time and resources on the governor's race in lieu of state General Assembly races during the weeks leading up to election day. Precisely because WWOR-TV is obligated to focus on a much larger than typical "community" (i.e., all of its Grade B contour area in New Jersey and not just Secaucus), there are times when it must devote

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<sup>63</sup> *Petition*, at 6. The Eagleton study itself does not go nearly as far as the Petitioners would like to take it – the study merely concludes that WWOR-TV's results were "at best mixed." It never says that the station's news coverage constitutes a "failure" to serve its community. See Eagleton Study, at 22.

<sup>64</sup> *Petition*, at 5.

<sup>65</sup> *Id.* at 4.

<sup>66</sup> See, e.g., *In re American Broadcasting Companies, Inc.*, 83 F.C.C. 2d at 305.

its resources to broader coverage responsive to viewers throughout northern New Jersey.<sup>67</sup>

Most importantly, though ignored by the Petitioners, WWOR-TV provides substantial coverage of issues related to New Jersey politics and elections via its non-newscast programming. The station regularly broadcasts special coverage of political events, such as Gov. Jon Corzine's live press conference in March 2006 to discuss the state budget and the need for tax increases.<sup>68</sup> WWOR-TV also airs weekly public affairs programs that provide more extensive treatment of political issues. In fact, beginning in the Fall of 2006, the station broadcast *Ask Congress*, which each week featured an in-depth interview with one of New Jersey's Congressional Representatives or U.S. Senators.<sup>69</sup> After conducting interviews with both Senators and nine of the state's 13 Representatives (all were invited), the station transitioned the program to a new show entitled *New Jersey Now*, which uses a similar format to conduct interviews with members of the New Jersey General Assembly and state senators, as well as political leaders and candidates for local positions such as a town's Board of Education.<sup>70</sup> WWOR-TV also broadcasts *Real Talk*, which focuses on civic and community leaders; the program recently featured interviews with representatives of Newark Now (an organization devoted to equipping and empowering Newark residents with the tools and

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<sup>67</sup> The Petitioners do not attempt to show that WWOR-TV failed to provide non-gubernatorial political news outside the timeframe studied by Eagleton, nor could they, given the substantial efforts that Fox has devoted to local politics during its public affairs programming (described below).

<sup>68</sup> See Declaration of Molly Pauker, attached hereto as Exhibit A.

<sup>69</sup> See *id.*

<sup>70</sup> See *id.*

resources needed to transform their communities through neighborhood-based associations and tenant organizations) and AARP New Jersey (which advocates for enhancing the quality of life for all people as they age).<sup>71</sup>

The Petitioners pay scant attention to these programs, which supplement the election coverage provided in WWOR-TV's regularly-scheduled newscasts and amply demonstrate that the station does not ignore New Jersey political news.

## **2. Issues/Program Lists**

With respect to the Petitioners' second argument – that the station's issues/program lists and New Jersey service reports allegedly reflect a dearth of New Jersey news coverage – the *Petition* itself suffices to thoroughly undermine the claim.<sup>72</sup> Exhibit B to the *Petition* contains a list of news stories, culled from WWOR-TV's issues/programs lists just for 2006 and the first three months of 2007, which the Petitioners classify as New Jersey-focused.<sup>73</sup> Setting aside that the Petitioners use an unduly narrow definition for programming they consider responsive to New Jersey residents, the *Petition* identifies 285 New Jersey-centric stories broadcast by WWOR-TV in the past 15 months.<sup>74</sup> Relying on the New Jersey service reports appended to WWOR-

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<sup>71</sup> See *id.* Earlier in its license term, WWOR-TV broadcast other weekly public affairs programs, which also catered to New Jersey residents' needs and interests. *Garden State Matters*, for example, focused on a variety of topics of local interest, such as an interview with the New Jersey Public Utilities Board president to discuss the blackout that affected the state in 2004. *Black Experience* and *Hispanic Horizons*, meanwhile, centered on subjects of particular concern to the large African American and Hispanic populations, respectively, in northern New Jersey. See Declaration of Molly Pauker, attached hereto as Exhibit A.

<sup>72</sup> See *Petition*, at 6-9.

<sup>73</sup> See *id.* at Exhibit B.

<sup>74</sup> See *id.*

TV's renewal application, the *Petition* also identifies more than 1,350 stories targeted to the state since 1999.<sup>75</sup> Thus, by the Petitioners' own calculation, the station clearly has broadcast far more than a "nominal" amount of New Jersey-focused programming.

Importantly, however, the *Petition* classifies stories as serving New Jersey only if they relate to a specific event that occurs within the geographic boundaries of the state. The Petitioners irrationally exclude from their analysis any news story that relates to national or regional issues, notwithstanding that coverage of the broader world is indisputably responsive to New Jersey residents' needs and interests. Indeed, stories about developments in the Iraq war, a Presidential election or a national crisis like Hurricane Katrina would merit no credit in the Petitioners' myopic view of what matters to New Jersey viewers. Likewise, stories focused on developments in New York City warrant no recognition, even though tens of thousands of northern New Jersey residents work in or otherwise visit the city every day.<sup>76</sup> Surely the station's coverage of its community's larger metropolitan area is not irrelevant to the analysis of its overall level of service.<sup>77</sup>

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<sup>75</sup> See *id.* at Exhibit C.

<sup>76</sup> There are numerous examples of stories ignored by Petitioners because they related geographically to New York, even if they indisputably would be of interest to New Jersey residents. For instance, WWOR-TV ran reports about the U.S. Environmental Protection Agency declaring New York to be ranked worst for "dirtiest air" – a potential health issue for nearby residents – and stories relating to regional transit issues that necessarily had an impact on the lives of New Jersey residents that commute to the city. See, e.g., *id.* at Exhibit C, pages 23, 24, 30 and 47.

<sup>77</sup> The *Petition* also appear to have incorrectly classified a number of stories as unrelated to New Jersey despite the fact that they clearly relate to the state – even using the Petitioners' unduly narrow definition. For example, the *Petition* classified a story about security at Port Elizabeth – featuring a visit by New Jersey Sens. Lautenberg and Menendez – as "National/International." Similarly, the

Even more significantly, the Petitioners' analyze the issues/programs lists (and the station's New Jersey service reports appended to its renewal application) as if they reflect an exhaustive index of any and every issue addressed in WWOR-TV's programming during the past six and one-half years. The Petitioners rely on these lists to attempt to calculate the precise number of the station's stories relating to New Jersey; the *Petition* then declares that the "quantity of coverage provided by WWOR is not adequate to properly serve the community of license."<sup>78</sup> The lists, however, are only meant to be exemplary of WWOR-TV's service efforts; it would be nearly impossible for a broadcast station to catalogue literally every single item broadcast over a multiple-year license term. Thus, the Commission's rules only require (as the *Petition* itself notes)<sup>79</sup> that broadcast stations prepare lists of "programs that have provided the station's *most significant treatment* of community issues . . . ."<sup>80</sup> Even though the *Petition* identifies more than 1,000 relevant news stories in the station's New Jersey service reports, it still woefully undercounts the coverage provided by WWOR-TV that is responsive to New Jersey

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*Petition* classified a report about low-cost prescription drugs available at New Jersey pharmacies as "Other/Unidentified Local." *See, e.g., id.* at Exhibit C, pages 62 and 66. None of these reports are included in the Petitioners' count of 285 New Jersey-centric news stories.

<sup>78</sup> *Petition*, at 6. The Commission, however, long ago determined not to conduct "quantitative" analyses of licensees' performance at renewal time. *See In re Revision of Programming and Commercialization Policies*, 98 F.C.C. 2d at 1093-94.

<sup>79</sup> *See Petition*, at 6.

<sup>80</sup> 47 C.F.R. § 73.3526(e)(11)(i) (emphasis supplied).

viewers.<sup>81</sup> Accordingly, there is no validity to Petitioners' efforts to measure the quantity of WWOR-TV New Jersey coverage based solely on issues/programs lists.<sup>82</sup>

Petitioners also claim that the station's issues/programs lists do not show "reasonable coverage" of issues in specific municipalities (such as Elizabeth and Edison Township) within WWOR-TV's extended service area.<sup>83</sup> This claim makes little sense, for Petitioners appear to suggesting that a news story is responsive to a resident of Edison Township only if it addresses an issue exclusive and unique to that area. Of course, residents of communities across northern New Jersey care about more than just their own locality, and the breadth of New Jersey-centric issues addressed by WWOR-TV programming is responsive to viewers across the service area.<sup>84</sup> And as the Commission has made clear in a prior evaluation of WWOR-TV's service, "[a] licensee need only

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<sup>81</sup> The lists do not reflect, for example, each of the numerous instances in which WWOR-TV broadcast special coverage of local community events, such as the Muscular Dystrophy Telethon or various civic pride parades. Nor do they account for the multitude of times that station personnel (including on-air talent) volunteer at charitable events throughout the community. *See* Declaration of Molly Pauker, attached hereto as Exhibit A. Although ignored by the Petitioners, all of these examples serve to further demonstrate the station's commitment to New Jersey.

<sup>82</sup> The *Petition*, at 8, also chides WWOR-TV for "report[ing] only 10 public service announcements" during 2005-06 (and none during other time periods). In reality, WWOR-TV has broadcast more than 20,000 PSAs on a wide range of topics in the past two years alone. *See* Declaration of Molly Pauker, attached hereto as Exhibit A. That the station chose not to list the vast majority of its PSAs in the specific reports reviewed by Petitioners hardly means that no PSAs were aired. The Petitioners' quick jump to a faulty conclusion demonstrates the danger in their attempt to draw universal conclusions based on reports that never were intended to be comprehensive.

<sup>83</sup> *Petition*, at 9.

<sup>84</sup> *See License Renewal Applications*, 5 FCC Rcd at 3848 ("issue-responsive programming of general concern may be considered to address the needs of subgroups within a community").

have addressed community issues with whatever types of programming, that in its reasonably exercised discretion, it determined was appropriate to those issues.”<sup>85</sup> In any case, the issues/programs lists provide examples of significant issues addressed by WWOR-TV in each of the municipalities identified by the *Petition*, as the *Petition* itself makes clear.<sup>86</sup>

### 3. *April 2007 Newscasts*

Finally, the Petitioners fare no better in attempting to rely upon their own review of approximately 12 days of WWOR-TV’s local newscasts during April 2007.<sup>87</sup> As noted above, no rational conclusions about a station’s *overall* service to its community can be drawn from so limited an amount of time. Nor can the Commission evaluate a station’s efforts based only on local newscasts, which of course is only one of many types of programming that WWOR-TV offers to be responsive to its viewers’ interests. But even within the brief period covered by the Petitioners’ newscast analysis, there is no

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<sup>85</sup> *In re RKO General, Inc.*, 1 FCC Rcd at 1086; *see also License Renewal Applications*, 5 FCC Rcd at 3848 (holding that licenses are not required to present programming concerning a particular segment of the community “in proportion to their percentage of the overall community’s population” and need not “respond[] to problems of every community group”). Moreover, to the degree that Petitioners identify a handful of news subjects that they claim were not covered by the station, *see Petition*, at 11, 13, it lies within the licensee’s discretion to determine which subjects warrant news coverage. A “licensee is under no obligation to cover each and every newsworthy event which occurs within a station’s service area.” *In re American Broadcasting Companies, Inc.*, 83 F.C.C. 2d at 305.

<sup>86</sup> *See Petition*, at 9-11.

<sup>87</sup> *See id.* at 11-13. The *Petition* indicates that the analysis focused on 12 days, though it acknowledges that 1 day was omitted due to a “recording error.” *Id.* at 11. The exhibit offered in support of this analysis, however, shows two distinct days during the Petitioners’ 12-day window for which no data is provided. *See id.* at Exhibit D.



evidence to suggest that WWOR-TV has shirked its obligation to cover issues of importance to New Jersey.

Indeed, the evidence supplied by the Petitioners reflects that each of WWOR-TV's newscasts during the period studied spent time addressing stories specific to New Jersey.<sup>88</sup> Again the Petitioners inappropriately excluded from consideration national and regional stories, but even based on the calculations contained in the *Petition*, the station provided an average of five stories per night, lasting on average nearly six minutes.<sup>89</sup> The summaries provided in Exhibit D to the *Petition* make it quite difficult to tell exactly how the Petitioners analyzed WWOR-TV's newscasts, and it is unclear whether similar stories were treated the same way on different days. The summary data reported for April 12, for instance, says that the station aired 6 New Jersey stories totaling just under 4 minutes.<sup>90</sup> But the supporting details supplied by Petitioners actually reveal 10 stories totaling more than 8 minutes.<sup>91</sup> Similarly, the summary for April 13 reflects 7 stories/8.5 minutes, but the detail shows 8 stories lasting more than 11 minutes.<sup>92</sup> Even if the newscasts studied did constitute a representative sample – and they do not – these irregularities make it impossible for the analysis to be considered reliable.

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<sup>88</sup> *See id.*

<sup>89</sup> *See id.*

<sup>90</sup> *See id.* at Exhibit D, Summary.

<sup>91</sup> *See id.* at Exhibit D, page 1.

<sup>92</sup> *See id.* at Exhibit D, Summary and page 4.

Moreover, although they offered no justification for the decision to evaluate 12 apparently random days in April 2007,<sup>93</sup> the Petitioners noted that this time period happened to coincide with three significant national news events related to New Jersey: the Don Imus/Rutgers Women's Basketball scandal; the car wreck involving Gov. Jon Corzine; and the powerful rainstorm that caused massive flooding and property damage.<sup>94</sup> As the Petitioners acknowledge, WWOR-TV provided detailed coverage of these news stories.<sup>95</sup> But incredibly, the Petitioners then criticize WWOR-TV for devoting too much attention to these stories in comparison to other New Jersey news.<sup>96</sup> It is patently unfair, however, for the Petitioners to summarily dismiss WWOR-TV's efforts to cover important local stories in order to claim that the station does not effectively cover local news. If anything, Fox's coverage of these critical local stories only serves to confirm its commitment to devote time and resources to address the most compelling issues facing its viewers.

In short, the Petitioners' claims are riddled with flaws and inconsistencies, and they fail to raise any legitimate questions regarding WWOR-TV's renewal application.

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<sup>93</sup> See *RKO General, Inc.*, 1 FCC Rcd at 1088, n. 45 (criticizing a study purporting to measure WWOR-TV's local programming for, among other things, days chosen for evaluation: "We do not know . . . whether the days selected represent [the licensee's] best, worst or typical performance").

<sup>94</sup> See *Petition*, at 12.

<sup>95</sup> See *id.*; see also *id.* at Exhibit D.

<sup>96</sup> See *Petition*, at 13.

**B. Contrary to the *Petition*'s Unsupported Speculation, Fox Remains Committed to WWOR-TV's Physical Presence in New Jersey**

Relying on mere conjecture, the Petitioners also question WWOR-TV's commitment to a physical presence in New Jersey as well as its long-term commitment to identifying with the state.<sup>97</sup> The *Petition* speculates, for example, that Fox is preparing to relocate the station's operations out of New Jersey, and that WWOR-TV has taken on a strong New York identity.<sup>98</sup> These unsupported allegations also fail to raise any question about the merits of the WWOR-TV renewal application.

Fox reiterates here what it has told the Commission before – it has no plans to relocate WWOR-TV's operations out of New Jersey.<sup>99</sup> On the contrary, Fox is committed to maintaining a significant physical presence in the state. WWOR-TV operates its main studio out of its Secaucus facility, which also serves as the headquarters for the station's substantial news-gathering apparatus. Fox employs 80 full-time personnel in the station's news department, including news managers, news anchors, sports reporters, weathercasters, reporters, editors, and photographers.<sup>100</sup> WWOR-TV also maintains a satellite news gathering truck for both itself and sister station

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<sup>97</sup> See *id.* at 14.

<sup>98</sup> See *id.*

<sup>99</sup> See Letter from Maureen O'Connell, Vice President, Regulatory and Government Affairs, News Corporation, to Kenneth Ferree, Chief, Media Bureau, dated October 27, 2004 (noting that "Fox has no plans to relocate [WWOR-TV] to New York, but rather intends to continue to have a strong physical presence in its state of license").

<sup>100</sup> See Declaration of Molly Pauker, attached hereto as Exhibit A.

WNYW(TV) at the Secaucus facility, along with five other live news trucks that service both stations' New Jersey newsgathering efforts.<sup>101</sup>

Petitioners also cite to the WWOR-TV web site ([www.my9ny.com](http://www.my9ny.com)), and its branding as "My9NY" in promotional materials, as an indication that Fox has "eschewed any reference to its New Jersey roots."<sup>102</sup> None of this is relevant to the question of whether WWOR-TV has broadcast issue-responsive programming during its license term, and the Commission need not consider these allegations any further.<sup>103</sup> It is hardly remarkable, though, that a television station operating as the affiliate for the MyNetworkTV television network in the New York designated market area – the nation's largest – would brand itself in a way meant to highlight its network affiliate status. These branding efforts, relating to network affiliation, do nothing to undermine the station's commitment to providing its viewers with news and information uniquely suited to New Jersey residents, as amply demonstrated above.

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<sup>101</sup> *See id.*

<sup>102</sup> *See Petition*, at 14.

<sup>103</sup> *See, e.g., In re WWOR-TV, Inc.*, 6 FCC Rcd 193, 206 (1990) (finding that WWOR-TV's use of promotional names that failed to mention New Jersey was irrelevant); *In re RKO General, Inc.*, 1 FCC Rcd at 1088, n. 47 (finding that promotional materials had no bearing on analysis of WWOR-TV's New Jersey programming efforts).

#### IV. CONCLUSION


As demonstrated above, the *Petition* reveals a disturbing disregard for the fundamental constitutional principles that have permitted the development of a robust and free press so critical to the functioning of democracy. Although reasonable people can disagree about the press' editorial choices, the Petitioners would have the government become the final arbiter of those disagreements when it comes to broadcast journalism. The *Petition's* proffered approach, however, conflicts so gravely with constitutional principles that it must be dismissed.

Regardless, the *Petition* fails to allege a prima facie case that WWOR-TV's overall programming effort throughout its license term failed to serve the public interest. Perhaps that comes as no surprise, given Fox's record of exemplary service to

viewers throughout northern New Jersey. Accordingly, consistent with controlling precedent, and the strictures of the Constitution, the *Petition* should be dismissed.

Respectfully submitted,

FOX TELEVISION STATIONS, INC.

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Its Attorneys

Dated: May 30, 2007

# **EXHIBIT A**

## DECLARATION

I, Molly Pauker, hereby state as follows:

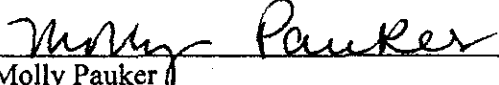
1. I am Vice President of Fox Television Stations, Inc. ("Fox"), licensee of WWOR-TV, Secaucus, New Jersey.
2. I have read the foregoing Opposition to Petition to Deny of Fox, dated May 30, 2007 ("Opposition"), which has been prepared in response to the Petition to Deny, filed April 30, 2006 by Voice for New Jersey, with respect to the license renewal application of WWOR-TV.
3. Except for matters as to which official notice may be taken, I have personal knowledge of the facts contained in the Opposition and declare that such facts are true and correct. In particular, Fox acquired WWOR-TV in July 2001. Since that time, WWOR-TV has broadcast more than 2,000 hours of regularly-scheduled local newscasts as well as more than 200 hours of public affairs programming. WWOR-TV also broadcasts breaking news alerts and updates, such as live coverage of Gov. Jon Corzine's March 2006 press conference regarding the state budget and the need for tax increases. And the station regularly airs special coverage of local community events, such as the Muscular Dystrophy Telethon or various civic pride parades.
4. WWOR-TV airs two weekly public affairs programs that provide extensive treatment of New Jersey political issues. *Ask Congress* debuted in the Fall of 2006 and each week featured an in-depth interview with one of New Jersey's U.S. Senators or Congressional Representatives. After conducting interviews with both Senators and nine of the state's 13 Representatives (all were invited), the station transitioned the program to a new show entitled *New Jersey Now*, which uses a similar format to conduct interviews with members of the New Jersey General Assembly and state senators, as well as political leaders and candidates for local positions such as a town's Board of Education. In addition, WWOR-TV broadcasts *Real Talk*, which focuses on civic and community leaders; the program recently featured interviews with representatives of Newark Now (an organization devoted to equipping and empowering Newark residents with the tools and resources needed to transform their communities through neighborhood-based associations and tenant organizations) and AARP New Jersey (which advocates for enhancing the quality of life for all people as they age).
5. Earlier in its license term, WWOR-TV broadcast other weekly public affairs programs, which also catered to New Jersey residents' needs and interests. *Garden State Matters*, for example, focused on a variety of topics of local interest, such as an interview with the New Jersey Public Utilities Board president to discuss the blackout that affected the state in 2004. *Black Experience* and *Hispanic Horizons*, meanwhile, centered on subjects of particular concern to the



large African American and Hispanic populations, respectively, in northern New Jersey.

6. In the past two years alone, WWOR-TV has broadcast more than 20,000 public service announcements ("PSAs"), focusing on a variety of causes, including the Boys & Girls Clubs of New Jersey and CASA of New Jersey, which advocates for abused and abandoned children in proceedings before state courts. Station personnel (including on-air talent) also routinely volunteer at charitable events throughout northern New Jersey.
7. WWOR-TV also broadcasts a variety of entertainment and sports programming -- including serving as the over-the-air home of the New Jersey Nets as well as Major League Baseball games featuring the Yankees. The station in recent years has aired numerous Big East Conference football and basketball games featuring New Jersey schools Rutgers and Seton Hall universities as well.
8. Fox employs 80 full-time personnel in WWOR-TV's news department, including news managers, news anchors, sports reporters, weathercasters, reporters, editors, and photographers. The station also maintains a satellite news gathering truck for both itself and sister station WNYW(TV) at the Secaucus facility, along with five other live news trucks that service both stations' New Jersey newsgathering efforts

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 30, 2007.

  
Molly Pauker  
Vice President  
Fox Television Stations, Inc.  
5151 Wisconsin Avenue, N.W.  
Washington, D.C. 20015  
(202) 895-3088

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Opposition to Petition To Deny has been served by first-class mail, postage prepaid (except where otherwise indicated below), as of the 30th day of May, 2007, on the following persons at the address shown below:

Barbara Kreisman, Esq.\*  
Clay Pendarvis, Esq.\*  
Federal Communications Commission  
Media Bureau  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Voice for New Jersey  
c/o Donna Sandorse  
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Plainfield, NJ 07060

  
Katherine M. Coughlan

\* served via electronic mail

**Petition to Deny Renewal  
Filed by Voice for New Jersey  
In the matter of the application for renewal of Station License of WWOR(TV)  
BRCT-20070201AJT**

**FILED/ACCEPTED  
APR 30 2007**

**Federal Communications Commission  
Office of the Secretary**

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## SUMMARY

Voice for New Jersey (VNJ), an affiliation organized to promote better broadcast media coverage in New Jersey, is filing this petition to deny the renewal of station license for WWOR(TV). The petition is based on WWOR's failure to meet the needs of its community of license. Specifically, WWOR has failed to provide adequate news coverage of New Jersey elections and New Jersey government and has failed to provide adequate local news coverage in its community of license. WWOR has additionally failed to honor the specific obligations imposed on the station by the Federal Communications Commission. These obligations were established in recognition of WWOR's status as the only commercial VHF station licensed in the State of New Jersey, and the significant lack of television coverage dedicated to the densely populated northern New Jersey market.

The petition provides detailed information and analyses in support of these statements. This support takes the form of both third party studies and original research and analysis by VNJ members.

In 2005, the Eagleton Institute of Politics at Rutgers University analyzed media coverage of the 2005 elections. Their study contained the most comprehensive analysis of television election coverage that had ever been conducted in New Jersey. Among the study's findings was the conclusion that "...WWOR barely covered the 2005 elections."

Voice for New Jersey members undertook an independent review of WWOR's own reports of its compliance with its public interest obligations. The information reviewed included five quarterly "Issues and Programming Reports" covering all of 2006 and the first quarter of 2007. Also reviewed were eleven attachments to WWOR's application for license renewal. These attachments contained WWOR's documentation of its "Service to New Jersey" for the period 1999 to 2006. Finally, VNJ members monitored WWOR's news broadcasts for a period of approximately two weeks.

The results of this analysis offered surprising insight into the lack of adequate service offered by WWOR to its community of license. Based on the station's own reporting, WWOR averaged less than one New Jersey news story every two days from 1999 through 2006. In our detailed analysis of WWOR's 2006 news coverage, a scant 2.66 hours of New Jersey news coverage was provided in the first three quarters of the year. In the fourth quarter of 2006 and the first quarter of 2007, WWOR stopped reporting the airtime of its stories altogether.

As might be expected, this lack of airtime is reflected in very poor local coverage in the station's community of license. The municipalities of Jersey City, Patterson, Elizabeth, Edison, and Woodbridge, with populations ranging from nearly 100,000 to over 240,000, received only 28 news stories in total for all of 2006 and the first quarter of 2007. The bulk of these stories were crime-related, were generally negative in tone, and provided little in the way of substantial coverage of community issues.

VNJ's monitoring of WWOR's news broadcasts revealed a strong New York City bias in the station's coverage. The subjective impressions of the study participants were backed up by empirical data—WWOR's own 2006 Issues and Programming Reports indicate that New York stories received 77% more airtime than New Jersey stories. This bias is further reflected in WWOR's marketing and branding, which strongly identify the station with the New York City market and specifically eschew any identification with the community of license.

For all of these reasons, renewal of WWOR's Station License is *prima facie* inconsistent with the public interest standard set forth in Section 309(a) of the Communications Act. Accordingly, the application of WWOR should be designated for hearing.

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, DC 20554

In the Matter of  
Application for Renewal of Station License of

WWOR(TV)  
Secaucus, NJ

)

BRCT-20070201AJT

**PETITION TO DENY RENEWAL**

Pursuant to Section 309(d)(1) of the Communications Act, Voice for New Jersey (VNJ)<sup>1</sup> respectfully submits this petition to deny renewal of the above captioned application. As is demonstrated below, grant of this application is *prima facie* inconsistent with the public interest standard set forth in Section 309(a) of the Communications Act. Accordingly, the application of WWOR should be designated for hearing.

**INTRODUCTION**

This petition challenges the renewal of the station license for the commercial television station WWOR, licensed in the state of New Jersey. The basis of this challenge is that this station has failed to meet the needs of its community of license and, therefore, that renewal of its license would not serve the public interest. Specifically, as documented below, this station has failed to provide adequate news coverage and election coverage. In particular, the station failed to provide adequate coverage of NJ government (both legislative initiatives and election coverage) at the state and local levels. Further, despite its status as the only commercial VHF station licensed in the state of New Jersey and the attendant obligations imposed by the Commission with respect to serving the Northern New Jersey coverage area, WWOR specifically eschews any identification with its community of license, in its marketing, branding and advertising.

The current policies relating to license renewals were adopted in 1984. At that time, the Commission eliminated programming guidelines as to quantities of news and public affairs programming which would be presumed to constitute service in the public interest. However, in so doing, the Commission

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<sup>1</sup> Attachment A hereto is the declaration of Barbara George-Johnson, which identifies VNJ's interest in this application. VNJ is a working group that was created to promote a responsive and responsible public-interest media environment in New Jersey.

stressed that "the basic responsibility to contribute to the overall discussion of issues confronting the community is a non-delegable duty for which each licensee will be held individually accountable." *Deregulation of Radio*, 98 FCC 1075 (1984).

Beyond the normal obligations of any station to serve its community of license, the FCC has specifically imposed special obligations on WWOR to meet the needs of northern New Jersey. As the Commission stated in approving the move of Channel 9 from New York to Secaucus,

[W]e expect [WWOR-TV] to perform a higher degree of service to its Grade B coverage area than is normally required of a broadcast licensee. At renewal time, [WWOR-TV] will be judged by how it has met the obligation to serve the greater service needs of Northern New Jersey, which we view as broader than the specific needs of Secaucus. *Channel 9 Reallocation (WOR-TV)*, 53 RR2d 469, 471 (1983).

### **ELECTION COVERAGE**

Attachment B hereto is the declaration of Ingrid W. Reed, Director of the Eagleton New Jersey Project. Exhibit A to that declaration is a study prepared by the Eagleton Institute of Politics, Rutgers University.<sup>2</sup> The Eagleton New Jersey Project analyzed the coverage of the 2005 Elections, which were particularly critical to the state of New Jersey. At that time, New Jersey had an "acting" governor who had come to the office one year earlier upon the previous governor's resignation under less than desirable circumstances. As such, these elections held a broad interest for the people of New Jersey. Further, there were two closely contested and visible races in northern and central New Jersey. In the Somerset County area, Congressman Michael Ferguson, a Republican, was challenged by Assemblywoman Linda Stender, and kept his seat by a narrow 1% margin. In the Bergen County area, Paul Aronsohn, a Democrat, ran a well-funded campaign against Congressman Scott Garrett. Finally, the outcome of the only other major race in the New York media market - the mayoral race in New York City- was hardly in doubt.

Ms. Reed's declaration describes the methodology and data collection that was employed in the Eagleton study. The study analyzed the highest-rated nightly news programs shown in the 30 days before

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<sup>2</sup> The Eagleton New Jersey Project is an initiative of the Eagleton Institute of Politics at Rutgers University. The specific study referenced in this document is *Television Coverage of the 2005 New Jersey Election: An Analysis of the Nightly News Programs on Local New Jersey, New York and Philadelphia Stations*. The study was conducted by Dr. Matthew Hale of Seton Hall University (working with the University of Wisconsin NewsLab) and was funded by the Henry and Marilyn Taub Foundation.

the election on 12 stations<sup>3</sup> that serve New Jersey. As Ms. Reed explains, the study enlisted highly trained coders at the University of Wisconsin, Madison's NewsLab<sup>4</sup> who captured and analyzed 332 hours of local news programming during the final 30 days of the 2005 campaign. On most of the stations, the 6:00 – 6:30 pm news broadcasts were selected for analysis as these are typically the highest rated local news broadcasts of the entire day. In addition, the 11:00 pm late news was also captured. WWOR was one of only 3 stations that only aired one hour of news at 10:00 pm (and so this is the programming that was captured). While the study does not claim to analyze all the coverage, it is the most comprehensive analysis on local television election coverage that had ever been conducted in New Jersey. The study provided the following information with regards to WWOR:

- Of the 44 WWOR broadcasts captured during the study period, just 11 (25%) had an election story. Of the all New York stations in the study only one (WNYW) had a lower percentage (11%) of its broadcasts containing an election story. The average for all New York stations was 52%.
- WWOR aired a total of just 13 election stories during these 11 broadcasts. Of these, 10 stories (67%) focused on a New Jersey election, and 9 out of the 10 stories focused exclusively on the race for Governor<sup>5</sup>. As such, WWOR, like many other NY stations, presented no significant election coverage of any local, i.e. non-gubernatorial, New Jersey race.
- Of the 10 stories on WWOR-TV that focused on the New Jersey elections, half of them focused on the “horserace” or campaign strategy and half focused on substantive issues. While this is

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<sup>3</sup> The stations analyzed were: NY-based network affiliates (WABC, WCBS, WNBC, WNYW); Philadelphia-based network affiliates (WKYW, WCAU, WPVI, WTXF) and New Jersey Stations (CN8, News 12, NJN and WWOR).

<sup>4</sup> University of Wisconsin, Madison's NewsLab UW NewsLab is a 2,500 square-foot media analysis facility located at the center of the UW-Madison campus, equipped with 35 Windows XP workstations each with the capability of digitizing video from DVD, video cassette, or other digital media. Video can be gathered, sorted, and archived automatically by the *InfoSite* analysis system developed by CommIT Technology Solutions, Inc. UW NewsLab employs and trains undergraduate and graduate students, who learn to be painstakingly detailed in their research methods on a real-time deadline. Wisconsin NewsLab staff then analyze each segment using coding protocols developed by researchers. The UW NewsLab dataset is the most comprehensive and systematic collection of local news ever gathered. Its archives have been crucial resources for scholars documenting the flow and effect of broadcast messages and for policymakers seeking to improve the quality of news coverage across the nation on a variety of topics from elections to health to foreign affairs.

<sup>5</sup> The remaining election story on WWOR focused primarily on the gubernatorial race also, but did mention other New Jersey candidates who appeared with the two candidates for Governor. It was therefore coded as being about multiple races.

fairly respectable when compared to the low standards seen in national studies of local news, it is important to recognize that the large majority (70%) of WWOR's stories aired in the final week of the election. This means New Jersey residents who rely on WWOR for their election news had to wait until the campaign was virtually over before getting it.

- The 2005 New Jersey gubernatorial race was generally classified as a nasty race. This is reflected in the fact that, like all the other stations in the study, WWOR failed to air a single story that could be categorized as having a positive tone.

The Eagleton analysis concluded that results for "WWOR are at best mixed.... WWOR barely covered the 2005 elections".<sup>6</sup> The results speak for themselves, and clearly indicate the station's failure to serve its community of license.

### **PROGRAMMING AND ISSUES**

As required by the Commission, WWOR prepares a quarterly "Issues and Programming Report" which is designed to demonstrate a station's compliance with its public interest obligations. The report is intended to present the licensees most significant programming treatment of community issues.

Attachment C hereto is the declaration of Charles Lovey, a member of Voice for New Jersey. Mr. Lovey has analyzed five quarterly reports encompassing all of 2006 and January – March 2007 (This analysis is attached as Exhibit B). Using the information on news coverage provided by the station in these filings, news stories have been identified by location (New Jersey vs. NYC and boroughs, Staten Island, Other NY, Connecticut, other local and national/international) and by subject matter (government/politics, crime/law enforcement/ tabloid, human interest, and general news). This analysis has yielded the following information:

- The quantity of news coverage provided by WWOR is not adequate to properly serve the community of license. WWOR reported LESS THAN 10 HOURS OF TOTAL NEWS COVERAGE in its Issues and Programming Reports covering the first three quarters of 2006. For the fourth quarter of 2006

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<sup>6</sup> Eagleton NJ Project, *Television Coverage of the 2005 New Jersey Election: An Analysis of the Nightly News Programs on Local New Jersey, New York and Philadelphia Stations*, Eagleton Institute of Politics, Rutgers University, New Brunswick, NJ.



and the first quarter of 2007, WWOR stopped reporting the airtime of its stories altogether.

- WWOR's coverage of New Jersey issues is completely inadequate. Of the 9.85 hours of news coverage reported in the first three quarters of 2006, a scant 2.66 hours (27%) was dedicated to New Jersey stories. By way of contrast, 4.72 hours of coverage was dedicated to New York stories—more than 77% more broadcast time.
- Of the total 278 New Jersey stories reported over 5 quarters, 28% focused on crime (including many sensational stories such as “Guns Near School”, “Fighting Gangs”, “Videotaping Pervert”, etc.); 46% covered government and politics (taxes, civil unions, elections, etc.) and only the remaining 26% were dedicated to general news and issues (affordable housing, health, education, etc.)
- For the 1<sup>st</sup> Quarter of 2007, only seven (7) news stories IN TOTAL were included in the WWOR Issues and Programming Quarterly Report.

Once again, the foregoing analysis clearly indicates the station's failure to serve its community of license.

### **SERVICE TO NEW JERSEY**

WWOR has submitted to the Commission eleven reports that were attached as Exhibit 25 to WWOR's Application for License Renewal in a section entitled “Service to New Jersey”. The content of these reports is substantially a subset of the combined content of WWOR's quarterly “Issues and Programming Reports” for a given year, and set forth the station's public interest programming which is specific to New Jersey for the years 1999 - 2006.

Attachment C hereto is the declaration of Charles Lovey who has analyzed the contents of the eleven reports. To verify consistency between the 2006 “Service to New Jersey” report and our analysis of WWOR's “Issues and Programming Reports” for the same time period, the contents of the two reports were compared, with particular emphasis on the analysis of news coverage as described in the “Programming and Issues” section of this document. This analysis is summarized in Exhibit C hereto and has yielded the following information.